

## **IC 35-49-3**

### **Chapter 3. Crimes**

#### **IC 35-49-3-1**

##### **Sale, distribution, or exhibition of obscene matter**

Sec. 1. A person who knowingly or intentionally:

- (1) sends or brings into Indiana obscene matter for sale or distribution; or
- (2) offers to distribute, distributes, or exhibits to another person obscene matter;

commits a Class A misdemeanor. However, the offense is a Class D felony if the obscene matter depicts or describes sexual conduct involving any person who is or appears to be under sixteen (16) years of age.

*As added by P.L.311-1983, SEC.33.*

#### **IC 35-49-3-2**

##### **Obscene performance**

Sec. 2. A person who knowingly or intentionally engages in, participates in, manages, produces, sponsors, presents, exhibits, photographs, films, or videotapes any obscene performance commits a Class A misdemeanor. However, the offense is a Class D felony if the obscene performance depicts or describes sexual conduct involving any person who is or appears to be under sixteen (16) years of age.

*As added by P.L.311-1983, SEC.33.*

#### **IC 35-49-3-3**

##### **Dissemination of matter or conducting performance harmful to minors**

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally:

- (1) disseminates matter to minors that is harmful to minors;
- (2) displays matter that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor's parent or guardian;
- (3) sells or displays for sale to any person matter that is harmful to minors within five hundred (500) feet of the nearest property line of a school or church;
- (4) engages in or conducts a performance before minors that is harmful to minors;
- (5) engages in or conducts a performance that is harmful to minors in an area to which minors have visual, auditory, or physical access, unless each minor is accompanied by the minor's parent or guardian;
- (6) misrepresents the minor's age for the purpose of obtaining admission to an area from which minors are restricted because of the display of matter or a performance that is harmful to minors; or
- (7) misrepresents that the person is a parent or guardian of a

minor for the purpose of obtaining admission of the minor to an area where minors are being restricted because of display of matter or performance that is harmful to minors; commits a Class D felony.

(b) This section does not apply if a person disseminates, displays, or makes available the matter described in subsection (a) through the Internet, computer electronic transfer, or a computer network unless:

- (1) the matter is obscene under IC 35-49-2-1;
- (2) the matter is child pornography under IC 35-42-4-4; or
- (3) the person distributes the matter to a child less than eighteen (18) years of age believing or intending that the recipient is a child less than eighteen (18) years of age.

*As added by P.L.311-1983, SEC.33. Amended by P.L.59-1995, SEC.4; P.L.3-2002, SEC.4.*

#### **IC 35-49-3-4**

##### **Defense to prosecution for dissemination of matter or conducting performance harmful to minors**

Sec. 4. It is a defense to a prosecution under section 3 of this chapter for the defendant to show:

- (1) that the matter was disseminated or that the performance was performed for legitimate scientific or educational purposes;
- (2) that the matter was disseminated or displayed to or that the performance was performed before the recipient by a bona fide school, museum, or public library that qualifies for certain property tax exemptions under IC 6-1.1-10, or by an employee of such a school, museum, or public library acting within the scope of his employment;
- (3) that he had reasonable cause to believe that the minor involved was eighteen (18) years old or older and that the minor exhibited to the defendant a draft card, driver's license, birth certificate, or other official or apparently official document purporting to establish that the minor was eighteen (18) years old or older; or
- (4) that he was a salesclerk, motion picture projectionist, usher, or ticket taker, acting within the scope of his employment and that he had no financial interest in the place where he was so employed.

*As added by P.L.311-1983, SEC.33.*